

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JOHN MARK WHATLEY	§	
VS.	§	CIVIL ACTION NO. 1:21-cv-459
ZENA STEPHENS, ET AL.	§	

ORDER

Plaintiff has filed a motion (doc. #13) asking the court to appoint counsel to represent him.

A civil rights plaintiff is not entitled to appointment of counsel unless his case presents exceptional circumstances. *Naranjo v. Thompson*, 809 F.3d 793, 799 (5th Cir. 2015); *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982). Exceptional circumstances include: (1) the type and complexity of the case; (2) the plaintiff's ability to present and investigate his case; (3) whether the evidence will consist in large part of conflicting testimony requiring skill in presenting evidence and in cross-examination; and (4) the likelihood that appointing counsel will benefit the court and the litigants by shortening the trial and assisting in a just determination. *Naranjo*, 809 F.3d at 799.

Plaintiff asserts several claims concerning conditions at the Jefferson County Correctional Facility. The questions of fact are not unduly complex and the applicable law is well-settled. Plaintiff has clearly explained his claims to the court. This case does not present complex factual or legal issues. It is therefore

ORDERED that Plaintiff's motion seeking appointed counsel is **DENIED**.

Plaintiff has also filed a motion (doc. #16) seeking an extension of time to serve Defendants. He states he has attempted to serve Defendants, but has been unsuccessful.

Plaintiff has been granted *in forma pauperis* status in this matter. As a result, the United States Marshal, rather than Plaintiff, will be responsible for service. The motion for extension of time is therefore **DENIED** as unnecessary. Moreover, while the Marshal will be responsible for service, Plaintiff's motion seeking service at this time (doc. #11) is **DENIED** as premature.

Finally, Plaintiff has filed a motion (doc. #6) seeking to inform the court he is proceeding under the court's federal question jurisdiction and the court's diversity jurisdiction with respect to a corporate entity which operates the commissary at the Jefferson County Correctional Facility. Plaintiff also seeks to inform the court that he demands trial by jury.¹ This motion is **GRANTED** to the extent that the court acknowledges Plaintiff is attempting to proceed under both federal question jurisdiction and diversity jurisdiction and has made a jury trial demand.

SIGNED this the 31st day of August, 2022.

A handwritten signature in black ink, appearing to read 'C. Stetson', written over a horizontal line.

Christine L Stetson
UNITED STATES MAGISTRATE JUDGE

¹ The court notes Plaintiff made a jury demand in his Complaint (Doc. #1.).